



# Corporate

Governance



*The Articles of Association (the “Articles”) of Cytos Biotechnology Ltd can be viewed at [www.cytos.com](http://www.cytos.com) under “Investor Relations/Corporate Governance”. Link: <http://www.cytos.com/?id=1989>.*

*The information published below conforms to the Corporate Governance Directive (“DCG”) of the SIX Swiss Exchange (“SIX”). The numbering of the subsections was made on the basis of this above mentioned directive.*



## Group structure and shareholders (DCG 1)

### Group structure (DCG 1.1)

With regard to the activities in biotechnology, the board of directors (“Board of Directors”) and the executive board (“Executive Board”) review the financial performance on an aggregate basis and manage the operations of Cytos Biotechnology Ltd (the “Company”) as a single operating entity. Accordingly, the Company operates in one segment, which is the business of discovery, development and commercialization of vaccine candidates for human health care.

Cytos Biotechnology Ltd, Schlieren, Switzerland, is listed on the SIX Swiss Exchange, Zurich, Switzerland.

Security number	1 102 521
ISIN	CH0011025217
Ticker symbol	CYTN
Market capitalization on December 31, 2009	CHF 65.6 million

The Company is a corporation established under Swiss laws with registered office in Schlieren, Switzerland. The group consists of the parent company Cytos Biotechnology Ltd and four non-listed companies:

<b>Name</b>	<b>Share capital (in thousands)</b>	<b>Share- holding</b>
Cytos Biotherapeutics Ltd, Schlieren, Switzerland	CHF 100	100%
Mavena in liquidation AG, Belp, Switzerland	CHF 6,000	100%
Proteome Therapeutics GmbH, Singen, Germany	EUR 25	100%
BioSupport AG, Schlieren, Switzerland	CHF 100	33%

### **Significant shareholders (DCG 1.2)**

In 2009 the Company published the following disclosures in accordance with article 20 of the Swiss Stock Exchange Act:

*Stichting Pensioenfonds ABP, Oude Lindestraat 70, P.O. Box 4910, 6401 JS Heerlen, The Netherlands,*

reported as follows:

- Holding of 158,410 registered shares of Cytos Biotechnology Ltd representing 3.01% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich as of February 18, 2009.
- Holding has fallen below the 3%-threshold as of July 28, 2009.

*InCentive Asset Management AG, Tödistrasse 36, 8002 Zurich, Switzerland,*

had reported that the below mentioned group members own registered shares and financial instruments of Cytos Biotechnology Ltd as of March 2, 2009, as follows:

The group members own purchase positions, pursuant to Art. 10 para. 3 a SESTO-SFBC, representing 171,574 registered shares with 3.26% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich, consisting of 115,000 registered shares representing 2.19% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich and conversion and share purchase rights representing 56,574 registered shares with 1.08% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich. The rights are as follows:

- 1,000,000 call warrants representing 28,572 registered shares with 0.54% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich. ISIN number: CH 0037248231.
- 9,334 share basket certificate on a biotech basket representing 28,002 registered shares with 0.53% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich. ISIN number CH0047532319.

*Group members*

- InCentive Holding AG, Tödistrasse 36, 8002 Zurich, Switzerland (ownership: 100% by René Braginsky)
- InCentive Investment (Jersey) Ltd., International House, 41 The Parade, JES 3QQ St. Helier, Jersey Channel Islands (ownership: 100% by InCentive Holding AG)
- BioCentive Ltd., c/o Winchester Global Trust Company, P.O. Box HM 3396, Williams House, 20 Reid Street, Hamilton HM PX, Bermuda (ownership: 100% by InCentive Holding AG)
- René and Susanne Braginsky Stiftung, Zurich, Grütlistrasse 68, 8002 Zurich, Switzerland
- René Braginsky, Pilatusstrasse 22, 8032 Zurich, Switzerland

*GLS LP Investment V Ltd, Trafalgar Court, Les Banques, St. Peter Port, Guernsey GY1 3QL, Channel Islands,*

had reported that its holding has fallen below the 3%-threshold as of May 5, 2009.

*Cytos Biotechnology Ltd, Wagistrasse 25, 8952 Schlieren, Switzerland,*

had reported that it has sale positions pursuant to Art. 13 para. 1 b SESTO-FBC of 1,075,173 written share purchase and written conversion rights, corresponding to 20.40% of voting rights of the shares registered in the Commercial Register of the Canton of Zurich as of June 8, 2009.

The 1,075,173 written rights contain:

- 675,173 share purchase rights of several employee stock option plans, which entitle holders of options after a vesting period of 2 years to purchase a total of 675,173 registered shares of the Company, corresponding to 12.81% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich, and
- 400,000 written conversion rights stemming from the CHF 70 million 2.875% unsecured convertible bonds (due in 2012). ISIN: CH0029060735. At the moment, the Company would have to issue 400,000 registered shares out of the conditional capital for the conversion of the convertible bonds at the present conversion price of CHF 175. These 400,000 registered shares represent 7.59% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich. The conversion price can be adapted according to the conditions of the convertible bonds.

*Vontobel Fonds Services AG, Gotthardstrasse 43, 8022 Zurich, Switzerland,*

had reported as of November 2, 2009, that it had not notified purchases on January 13, 2009 and August 20, 2009. It concerns the following disclosures of shareholding pursuant to Art. 20 SESTA:

– Raiffeisen Futura Swiss Stock

Due to purchases on January 13, 2009, Raiffeisen Futura Swiss Stock owned then 169,065 registered shares of Cytos Biotechnology Ltd representing 3.21% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich.

– Vontobel Swiss Small Companies

Due to purchases on August 20, 2009, Vontobel Swiss Small Companies owned then 166,000 registered shares of Cytos Biotechnology Ltd representing 3.15% of the voting rights of the shares registered in the Commercial Register of the Canton of Zurich.

The consolidated notification of Vontobel Fonds Services AG had been communicated correctly (see disclosure from December 24, 2008).

The entire ad-hoc press releases may be read on the Company's website under the following link: <http://www.cytos.com/?id=939>.

To the knowledge of the Company, no shareholders are linked by any shareholders' agreement.

**Cross-shareholdings (DCG 1.3)**

There are no cross-shareholdings.

## **Capital structure as of December 31, 2009 (DCG 2)**

### **Capital (DCG 2.1)**

The share capital of Cytos Biotechnology Ltd is CHF 527,005.60, fully paid up and divided into 5,270,056 registered shares with a nominal value of CHF 0.10 each according to the Commercial register of the Canton of Zurich.

### **Conditional capital (DCG 2.2)**

The Company has in total a conditional capital in the amount of CHF 167,327.30, divided into 1,673,273 shares with a nominal value of CHF 0.10 each (as described in the Articles in articles 4b, 4e and 4f).

The maximum amount of CHF 67,327.30, divided into 673,273 shares with a nominal value of CHF 0.10 each can be issued upon the exercise of option rights (to be) granted according to share option plans determined by the Board of Directors to the employees of the Company or its subsidiaries as well as to members of the Board of Directors or the Scientific Advisory Board of the Company or consultants as described in the Articles in articles 4b and 4e. For details of the existing option plans: see Note 25, "Share options", of the consolidated financial statements.

Furthermore, according to article 4f of the Articles, the share capital may be increased by the maximum amount of CHF 100,000 by issuing up to 1,000,000 fully paid up registered shares with a nominal value of CHF 0.10 each. These registered shares are issued upon exercise of conversion or option rights, which are granted in connection with convertible bonds or bonds with option rights or similar forms of financing issued by the Company or its subsidiaries. From the conditional capital according to article 4f of the Articles the Board of Directors has reserved the amount of CHF 40,000 for the conversion of the convertible bonds issued in February 2007 (see below "Convertible bonds and warrants/options"). Holders of conversion and option rights were entitled to the new shares.

The Board of Directors determines the issue conditions for the conversion and/or option rights, including exercise period and exercise price. The pre-emptive rights of the existing shareholders are excluded.

In connection with the issuance of convertible bonds or bonds with option rights or other similar forms of financing, the Board of Directors is authorized to restrict or exclude the pre-emptive subscription rights (Vorwegzeichnungsrechte) of the existing shareholders and to transfer them to third parties provided that the new shares are to be used (1) for financing or refinancing of the acquisition of enterprises or divisions thereof, or of participations, or of new investment plans of the Company, or (2) for issuing bonds with option rights or convertible bonds on the national or international capital markets.

If the pre-emptive subscription rights are excluded, the convertible bonds or the bonds with option rights or similar forms of financing have to be offered to the public at market conditions and the conversion rights may be exercisable during a maximum of seven years and option rights during a maximum of five years from the time of the respective issue, and the exercise price for the new shares has to be in accordance with market conditions at the time of issuance of the bonds.

The registered shares acquired by the exercise of conversion and/or option rights and each further transfer of the shares will be subject to the transfer restrictions of article 5 of the Articles.

**Authorized capital (DCG 2.2)**

Pursuant to article 4c of the Articles, the Board of Directors is authorized to increase the share capital at any time until April 23, 2010, by a maximum amount of CHF 100,000 by issuing a maximum of 1,000,000 fully paid up registered shares with a nominal value of CHF 0.10 each. Pursuant to article 4d of the Articles, the Board of Directors is further authorized to increase the share capital at any time until April 22, 2011, by a maximum amount of CHF 100,000 by issuing a maximum of 1,000,000 fully paid up registered shares with a nominal value of CHF 0.10 each.

The Board of Directors is entitled to issue the shares of the authorized capital by means of a firm underwriting or in partial amounts. The Board of Directors determines the issue price, the date from which they carry the right to dividends and the manner in which the new shares have to be paid up. The new registered shares will be subject to the transfer restrictions of article 5 of the Articles.

The Board of Directors is authorized to exclude the subscription rights of the shareholders and to transfer them to third parties provided that the new shares are to be used (1) for the takeover of enterprises through the exchange of shares, or (2) for financing the acquisition of enterprises or divisions thereof, or of participations, or of new investments of the Company, or (3) for granting an over-allotment option (Greenshoe) of up to 20% to the lead managers in connection with a placement of shares at market price, or (4) for raising capital in a fast and flexible manner, which would be difficult to achieve without the exclusion of statutory pre-emptive rights of the existing shareholders.

### Changes in capital (DCG 2.3)

Description of changes in capital that took place within the last three financial years:

<b>Consolidated Statement of Change in Shareholders' Equity<sup>1</sup></b> in TCHF (except for share information)	<b>Number of shares</b>	<b>Share capital</b>	<b>Additional paid-in capital</b>	<b>Other<sup>2</sup></b>	<b>Total</b>
<b>December 31, 2006</b>	<b>5,174,188</b>	<b>517</b>	<b>197,684</b>	<b>(152,301)</b>	<b>45,900</b>
Total comprehensive loss	-	-	-	(6,873)	(6,873)
Issuance of share capital	87,187	9	4,743	-	4,752
Share issuance costs	-	-	(44)	-	(44)
Net movement of treasury shares	-	-	40	(55)	(15)
Share-based compensation	-	-	2,284	-	2,284
Convertible bond – equity component <sup>1</sup>	-	-	-	8,430	8,430
<b>December 31, 2007</b>	<b>5,261,375</b>	<b>526</b>	<b>204,707</b>	<b>(150,799)</b>	<b>54,434</b>
Total comprehensive loss	-	-	-	(25,826)	(25,826)
Issuance of share capital	8,681	1	439	-	440
Share issuance costs	-	-	(47)	-	(47)
Net movement of treasury shares	-	-	(71)	59	(12)
Share-based compensation	-	-	2,871	-	2,871
<b>December 31, 2008</b>	<b>5,270,056</b>	<b>527</b>	<b>207,899</b>	<b>(176,566)</b>	<b>31,860</b>
Total comprehensive loss	-	-	-	(24,989)	(24,989)
Share issuance costs	-	-	(11)	-	(11)
Partial repurchase of convertible bonds	-	-	-	(785)	(785)
Net movement of treasury shares	-	-	(12)	36	24
Share-based compensation	-	-	2,142	-	2,142
<b>December 31, 2009</b>	<b>5,270,056</b>	<b>527</b>	<b>210,018</b>	<b>(202,304)</b>	<b>8,241</b>

<sup>1</sup> For further details see "Consolidated Statements of Change in Shareholder's Equity" and Note 17, "Shareholders' equity", to the consolidated financial statements.

<sup>2</sup> Including: legal reserves, treasury shares, accumulated deficit, cumulative translation adjustment and equity component of the convertible bonds outstanding.

#### **Shares and participation certificates (DCG 2.4)**

The Company has only one class of shares, i.e. registered shares with a nominal value of CHF 0.10 each. Each share is fully paid up and carries one vote and equal dividend rights with no privileges. The Company has no outstanding participation certificates.

The Company's shares are not certificated. Shareholders are not entitled to request printing and delivery of share certificates, however, any shareholder may at any time request the Company to issue a confirmation of its shareholding.

#### **Profit sharing certificates (DCG 2.5)**

The Company has not issued any profit sharing certificates.

#### **Limitations on transferability and nominee registrations (DCG 2.6)**

If buyers of registered shares explicitly declare in the request for registration that they have bought the registered shares in their own name and for their own account, they shall be registered in the share register as shareholders with voting rights. Article 5 of the Articles furthermore provides that shareholders may register their shares in the name of a nominee ("Nominee") and may exercise their voting rights by giving instructions to the Nominee to vote on their behalf. However, a Nominee holding more than 3% of the Company's share capital may be registered as a Nominee for shareholders with voting rights only if the Nominee discloses the identity of those ultimate beneficial owners of shares claiming 0.5% or more of the Company's share capital.

To remove or amend the above mentioned limitations on transferability and nominee registrations the approval of (i) at least two-third of the votes represented and (ii) the majority of the represented share capital at the respective shareholders meeting would be required.

#### **Convertible bonds and warrants/options (DCG 2.7)**

Cytos Biotechnology Ltd issued on February 20, 2007, 2.875% convertible bonds ("Convertible Bond") with a total nominal amount of CHF 70 million and a maturity of 5 years (maturity date: February 20, 2012). The actual conversion price is CHF 175, representing a conversion ratio of 28.571429 registered shares of the Company per convertible bond of CHF 5,000. The conversion price can be adapted according to the conditions of the Convertible Bond. Each bond in the amount of CHF 5,000 can at anytime be converted into new registered shares of Cytos Biotechnology Ltd. The shares required for the conversion of the bonds stem from the conditional capital according to article 4f of the Articles. The issue price of the Convertible Bond was 100% and the redemption price, also in case of early redemption, was fixed at 100%. Under certain circumstances, and subject to a period of 30 days' notice, the Company may early redeem the Convertible Bond. On December 31, 2009, the Company would have to issue 400,000 registered shares out of the conditional capital for the conversion of the Convertible Bond at the present conversion price of CHF 175. The Convertible Bond is listed at the SIX Swiss Exchange under the symbol CYT07 (see Note 14, "Convertible bond", to the consolidated financial statements).

Overview of outstanding options on December 31, 2009 (each option entitles the option holder to purchase one share):

Year of grant	Number of options outstanding	Exercise Price (CHF)	Exercise period (years)
2002: SOP 2002	137,618 *	79.50	10 1/2
2002: SOP IPO	37,581 *	42.46	10 1/2
2005	21,060 *	44.26	5
2005	500	44.26	5
2005	833	39.85	5
2006	64,120 *	53.29	5
2006	1,604	53.29	5
2007	66,296 *	117.83	5
2007	945	117.83	5
2008	95,488 *	79.35	5
2008	1,812	79.35	5
2009	151,472 *	33.42	5
2009	3,443	33.42	5
2009	82,352 *	12.38	5

\* Options allocated to employees; for further details please see Note 25, "Share options", of the consolidated financial statements.

In total, 665,124 options are outstanding, which represent CHF 66,512.40 of the nominal capital.

## Board of Directors (DCG 3)

### Members of the Board of Directors (DCG 3.1)

Name Position, Nationality	Year of birth	First elected	Elected until	Board committees	
				Nomination and compensation committee	Audit committee
<b>François L'Eplattenier, PhD</b> Chairman, Swiss	1939	1999	2010	○	
<b>Thomas Hecht, MD</b> Vice Chairman, German	1951	2003	2012	○	○
<b>Wolfgang A. Renner, PhD</b> Delegate, CEO, Swiss	1967	1998	2010	○	
<b>Jean-Yves le Cotonnec, MD, MSc</b> Member, French/Swiss	1949	2003	2012		○
<b>Sir Mark H. Richmond, PhD, ScD</b> Member, British	1931	1999	2011		
<b>Thorlef Spickschen, Dr. rer. pol.</b> Member, German	1941	2003	2012	●	
<b>Othmar T. Vock</b> Member, Swiss	1943	2006	2011		●

*Status as of December 31, 2009*

● Chairman  
○ Member



F. L'Eplattenier



T. Hecht



W. A. Renner

### **François L'Eplattenier**

PhD in chemistry, has been the Chairman of the Board of Directors since May 1999. From 1988 to 1996, he was a member of the executive committee of Ciba-Geigy, Switzerland, in charge of research and development of the group. Since his retirement he acts as a board member in different boards. At present he is a member of the boards of Valmesta SA and SSE Finance SA and a member of the advisory board of Aravis Venture. In 2009, he stepped down from the boards of Bachem Holding AG and NovImmune SA.

### **Thomas Hecht**

MD, has been a member of the Board of Directors since April 2003. He was vice president marketing (hematology, oncology, new products) for Amgen (Europe) AG from 1999 until 2002. Before this, he held different marketing and medical affairs positions at Amgen (Europe) AG, and at Amgen GmbH, Germany. He was co-head of the program for bone marrow transplantation, University of Freiburg i. Br., Germany, and worked as a physician at the University of Freiburg i. Br., Germany, for several years. Today, he provides services to the pharmaceutical industry in medical/marketing development and licensing strategies through HHC, a biopharmaceutical consulting company founded in 2002. He serves as chairman of the boards of Delenex Therapeutics AG, Affimed Therapeutics AG, Telormedix AG, Lipideon Biotechnology AG and SuppreMol GmbH. In 2009, he stepped down from the board of Esbatech AG.

### **Wolfgang A. Renner**

PhD in biotechnology, is one of the founders and an important shareholder of Cytos. He has been heading the Company since its incorporation and has been a member of the Board of Directors since July 1998 and serves as CEO and Delegate. For a detailed description see "Management – Executive Board".



*J.-Y. le Cotonnec*



*M. H. Richmond*



*T. Spickschen*



*O. T. Vock*

**Jean-Yves le Cotonnec**

MD, MSc (Mathematics and Statistics) and advanced degree in electronic engineering, has been a member of the Board of Directors since April 2003. He is founder and president of Triskel Integrated Services S.A. founded in 1995, a company providing integrated strategic services to the pharmaceutical and device industry. Before this, he held several management positions in product development at Serono, the "Institut des Technologies pour la Santé", and Zyma S.A. (now Novartis Healthcare). He is a member of the Scientific Advisory Board of Eclosion S.A.

**Sir Mark H. Richmond**

PhD, ScD in molecular biology, has been a member of the Board of Directors since September 1999. Previously, he was head of worldwide research with the former Glaxo Group from 1993 to 1996 and chairman of the British Science and Engineering Research Council. Since his retirement in 1996 he acted as board member in different biotech and pharmaceutical companies. At present he serves on the board of Ark Therapeutics Ltd.

**Thorlef Spickschen**

Dr. rer. pol., has been a member of the Board of Directors since April 2003. From 1994 to 2001 he was chairman and CEO of BASF Pharma/Knoll AG. Before this, he held executive positions at Boehringer Mannheim GmbH and at Eli Lilly. He is chairman of the board of BIOTEST AG and member of the board of Clovis Oncology, Inc. He also serves as a member of the supervisory board of the Orthopaedic Clinic of the University of Heidelberg. He is also chairman of the Investors Advisory Board of Heidelberg Innovation and of the German Kidney Foundation Support Society.

**Othmar T. Vock**

Holder of a Swiss Federal diploma from the "Handelsschule des Technikums Winterthur", served as CFO and member of the Executive Committee of Givaudan SA, from 2000 to 2004, when he retired. He has been a member of the Board of Directors of Cytos Biotechnology since April 2006. Before becoming CFO of Givaudan, he was employed in several finance positions at the Roche Group, where he held amongst other positions the post of internal auditor and was the Roche delegate and CFO for the fragrance/flavours business division. He also served in different positions at the Ciba Geigy Group in Brazil and Switzerland. Since his retirement he acts as a board member in different boards. At present he is a member of the boards of Swisscom AG and Ivoclar Vivadent AG. On both boards mentioned, Othmar T. Vock is chairman of the audit committee.

All the members of the Board of Directors, with the exception of Wolfgang A. Renner, CEO, are non-executive and none has ever been in an executive position in the last three years, neither in the Company nor in any of its subsidiaries. There are no significant business connections between the directors and the Company or its subsidiaries.

**Other activities and vested interests (DCG 3.2)**

Other than described above, none of the members of the Board of Directors has any position in governing or supervisory bodies of any major organization, institution or foundation under private or public law, permanent management or consultancy function for major interest groups, official function or political mandate.

**Elections and terms of office (DCG 3.4)**

The Articles provide that the Board of Directors must consist of three to nine board members. On December 31, 2009, it consists of seven members. Each member of the Board of Directors is elected individually for a maximum term of three years and may be re-elected for successive terms.

The term of office of a member of the Board of Directors is determined by the shareholders' meeting on the occasion of his election. Each year, approximately one third of the members of the Board of Directors are elected or re-elected.

**Internal organizational structure (DCG 3.5)**

The functions of the Chairman of the Board of Directors include the following:

- Chairing the meeting of the Board of Directors and the shareholders' meetings
- The supervision of the carrying out of measures, which the Board of Directors has enacted
- Representation of the Board of Directors to the public, public authorities and the shareholders. In respect to the representation to the public, the Chairman shall as a general rule consult the Delegate in advance.

The Chairman is the supervisor of the Delegate and supervises his activities.

The Board of Directors constitutes itself and appoints its chairman, vice-chairman and secretary.

The Board of Directors has established two permanent committees to carry out specific duties; the Audit Committee and the Nomination and Compensation Committee, each consisting of three or more members of the Board of Directors. The members of both committees are appointed by the Board of Directors for a duration of three years. The members of the Audit Committee are all non-executive, while one member of the Nomination and Compensation Committee has an executive function.

The Board of Directors met seven times in 2009. There is, however, contact between meetings as is required. Members of senior management regularly attend board meetings in order to report on areas of the business within their responsibility and to respond to questions from board members. One part of the meetings always takes place with the members of the Board of Directors only. No consultants with the exception of the secretary who is the Company's lawyer participated at the board meetings in 2009.

Attendance at the Board of Directors' and committee meetings in 2009:

<b>Name</b>	<b>Board meeting<sup>1</sup></b>	<b>Nomination and compensation committee<sup>2</sup></b>	<b>Audit committee<sup>2</sup></b>
François L'Eplattenier, PhD	6	2	
Thomas Hecht, MD	7	2	4
Wolfgang A. Renner, PhD	7	2	
Jean-Yves le Cotonnec, MD, MSc	7		2
Sir Mark H. Richmond, PhD, ScD	5		
Thorlef Spickschen, Dr. rer. pol.	5	2	
Othmar T. Vock	7		4

<sup>1)</sup> Including two telephone conferences  
<sup>2)</sup> Including telephone conference

Board of Directors' meetings tend to last approximately four hours on average, Audit Committee and Nomination and Compensation Committee meetings as well as Board meetings by telephone conference approximately one hour on average.

### **Nomination and Compensation Committee (NCC)**

The NCC meets when required and has the following duties:

- Determination of principles for the selection of candidates for the Board of Directors and preparation of selection of candidates
- Identification and assessment of potential Executive Board members and recommendation of appointment to the Board of Directors
- Definition of remuneration policy for the Board of Directors and the Executive Board and submission to the Board of Directors for approval
- Definition of overall package of remuneration of the Board of Directors and the Executive Board, which corresponds to performance and the market, and submission to the Board of Directors for approval
- Regularly reviewing of remuneration policy for the Board of Directors and the Executive Board
- Developing of share option plans and submission to the Board of Directors for approval
- Determining the number of share options to be granted and submission to the Board of Directors for approval
- Determining the Company's goals relevant for the employee performance related remuneration as well as evaluation of degree of goal achievement and submission to the Board of Directors for approval
- Reviewing and approval of employment agreements and other agreements with the Executive Board.

The chairman of the NCC informs about its activities at the Board of Directors' meetings. In the reporting year the chair of the NCC changed from François L'Éplatténier to Thorlef Spickschen. The NCC met twice in 2009.

### **Audit Committee (AC)**

The AC met four times in 2009. Amongst other aspects, the AC reviews the performance, compensation and independence of the external auditors, assesses the quality of the internal control system and forms an opinion on the efficiency and state of compliance with norms within the Company. The AC reviews and discusses the individual and consolidated financial statements and decides whether the year-end individual and consolidated financial statements be recommended to the Board of Directors for approval and presentation to the annual shareholders' meeting. The AC approves the quarterly reports including the condensed financial statements for release to the public. The AC supports the Board of Directors in preparing the decision on appointment and/or removal of the external auditors of the Company. The chairman of the AC informs the Board of Directors about its activities and decisions at the Board of Directors' meetings.

### **Definitions of areas of responsibility (DCG 3.6)**

All executive functions within the Company not reserved for the Board of Directors or the Chairman as stated in the Articles or the internal regulations (“Internal Regulations”) are delegated to the Delegate (CEO) and the Executive Board. The CEO chairs the Executive Board and is responsible for its organization.

In accordance with article 716a of the Swiss Code of Obligations (CO), article 23 of the Articles and article 2 of the Internal Regulations, the Board of Directors has the following non-assignable and non-withdrawable duties:

- The ultimate management of the Company and the handing out of the necessary instructions
- Establishment and amendment of the strategy of the Company as well as passing of resolutions about the taking up or suspension of business activities
- Establishment and alteration of the organization
- Based on proposals of the NCC the appointment and dismissal of members of the Executive Board and of other signatories of Cytos Biotechnology
- Establishing the finance and investment policy
- Adoption of the annual budget and approval of deviations from it
- Based on proposals of AC approval of the financial planning and establishment of principles of accounting and financial control as well as establishment of a system for internal control and risk management (see Note 3, “Financial risk management”, of the consolidated financial statements)
- Determination of the business year of the Company
- Supervision of the members of the Executive Board especially with respect to compliance with laws, the Articles, internal directives and instructions
- Preparation of the annual report and shareholders’ meetings as well as the execution of its decisions
- Notification of the judge in case of bankruptcy
- The adoption of resolutions concerning the increase of the share capital to the extent that such power is vested in the Board of Directors as well as resolutions concerning the confirmation of capital increases and respective amendments to the Articles
- Approval of mass redundancies as set out in article 335d CO or similar foreign prescriptions
- The examination of the professional qualification of special auditors.

Furthermore, the following transactions require the approval of the Board of Directors:

- Purchase and sale of real estate, subsidiaries or businesses
- Filing of law suits with an exposure of more than CHF 250,000
- Borrowing of more than CHF 1 million
- Granting of a loan or taking on contingent liabilities in respect of independent third parties with an exposure of more than CHF 250,000
- All transactions between the Company and the Delegate or members of the Executive Board
- Contracts with third parties the scope of which does not fall under the regular business activities of the Company.

**Information and control instruments vis-à-vis the Executive Board (DCG 3.7)**

The members of the Board of Directors receive yearly at least three comprehensive management reports designed to provide them with an update about business activities in general and developments in clinical trials, research, finance and any other matter of importance. These reports are discussed during board meetings together with the members of the Executive Board. In addition, strategic discussions are held. Condensed financial statements, drafted on the same financial principles (IFRS) as the year-end statements, are distributed to the members of the Board of Directors on a quarterly basis.

In addition to regular reporting, the Executive Board shall inform the Chairman of all important matters and events immediately.

Due to the size of the Company, it does not have an internal audit.

In 2009, none of the members of the Board of Directors, except the CEO, participated in any meeting of the Executive Board.

In 2009, the CFO of the Company was present at all Audit Committee meetings. One part of the meetings always takes place with the members of the Audit Committee only.

## Executive Board (DCG 4)

### Members of the Executive Board (DCG 4.1)

Name	Year of birth	Nationality	Position
Wolfgang A. Renner, PhD	1967	Swiss	Delegate and Chief Executive Officer (CEO)
Martin F. Bachmann, PhD	1967	Swiss	Executive Vice President and Chief Scientific Officer (CSO)
Mark Dyer, PhD	1963	English	Executive Vice President Business Development and Strategy
Frank Hennecke, PhD	1963	Swiss/German	Executive Vice President Product Development
Philipp Müller, MD	1953	Swiss	Executive Vice President Clinical Development
Jakob Schlapbach, lic. rer. pol. and MBA	1951	Swiss	Executive Vice President and Chief Financial Officer (CFO)
Hans Stocker, PhD	1948	Swiss	Executive Vice President Regulatory Affairs



*W. A. Renner*



*M. F. Bachmann*



*M. Dyer*

**Wolfgang A. Renner**

PhD in biotechnology, has been heading the Company since its incorporation and has been Delegate of the Board of Directors and Chief Executive Officer of Cytos since July 1998. He obtained his PhD in 1995 from the Swiss Federal Institute of Technology (ETH), Zurich. It was his thesis that provided the basis for the foundation of Cytos Biotechnology GmbH in 1995. His achievements were honored with the "ETH Medal" 1991, the first prize of the "Swiss Economic Award" 1999, the "Entrepreneur of the Year 2000 Award", the "CASH-GDI Award" 2003 (category: knowledge maker), the third prize of the "European BioTechnica Award of Excellence in Biotech Business" 2004, and the "Swiss Equity Award" 2006. He is a member of the Committee of Science and Technology of the Swiss Federation of Commerce and Industry (Economiesuisse) and of the Foundation Council of the Swiss National Science Foundation.

**Martin F. Bachmann**

PhD in molecular biology, has been Executive Vice President and Chief Scientific Officer of Cytos since October 1999. He received his PhD in 1995 at the Institute for Experimental Immunology, Zurich, in the laboratories of Nobel Laureate Prof. Zinkernagel and Prof. Hengartner. In 2005, he received a teaching position (Venia Legendi) for Immunology from the University of Zurich. He is author of more than 190 articles in internationally renowned scientific journals. His achievements were honored with two "ETH Medals" (1991 and 1995), the Pfizer Prize for Immunology (1998), and the Swiss Technology Award (2004).

**Mark Dyer**

PhD in molecular biology, has been Executive Vice President Business Development and Strategy of Cytos since July 2001. He was awarded a PhD in 1988 from the University of Cambridge, UK, where he studied with Nobel Laureate Sir John Walker at the MRC Laboratory of Molecular Biology. He has 20 years of pharmaceutical and biotechnology industry experience gained in Europe and the U.S. In 1993, he joined Sandoz AG (later: Novartis Pharma AG, Basel) as a member of global research management, where he was responsible for external research collaborations and from where he joined Cytos.



F. Hennecke



P. Müller



J. Schlapbach



H. Stocker

**Frank Hennecke**

PhD in molecular biology, has been Executive Vice President Product Development of Cytos since April 2001. He obtained his PhD in molecular biology from the University of Göttingen, Germany, in 1996. After a postdoctoral fellowship in the group of Prof. Plückthun at the University of Zurich, he joined Cytos in 1998. Under his guidance, the development of a number of manufacturing processes for pharmaceutical proteins could be completed successfully and full GMP compliant manufacturing processes for Immunodrugs™ have been implemented at Cytos.

**Philipp Müller**

MD, has been Executive Vice President Clinical Development of Cytos since March 2003. He received his MD from the University of Basel and also holds a Clinical Pharmacologist SKP degree of the Swiss Society for Clinical Pharmacology. He joined Cytos from Novartis Pharma AG, where he has been active in different functions in human pharmacology and clinical research, in the last seven years as Deputy of Global Head Clinical Pharmacology. He brings more than 20 years of experience to Cytos.

**Jakob Schlapbach**

Lic. rer. pol. and MBA (INSEAD), has been Executive Vice President and Chief Financial Officer of Cytos since June 2000. He received his degree in Economics from the University of Berne in 1979, followed by an MBA at INSEAD in Fontainebleau, France, in 1984. He has more than 25 years of banking and industrial financing experience. Before joining Cytos, he was CFO of two publicly quoted international companies, at the latest from 1994–2000 at Ascom group. He was elected CFO of the year 2002 by the renowned Swiss newspaper “Finanz und Wirtschaft”. He is a member of the board of directors of Lipideon Biotechnology AG.

**Hans Stocker**

PhD in biology, has been Executive Vice President Regulatory Affairs since December 2004. He received his PhD from the University of Zurich. He brings more than 25 years of experience in clinical and regulatory affairs to Cytos. From 2002–2003, he was head of the Swiss Agency for Therapeutic Products (Swissmedic) and managed the five preceding years its predecessor organization, the Intercantonal Office for the Control of Medicines (IKS). Before this, he held senior positions with Johnson & Johnson’s Pharmaceutical Research Institute and with Cilag AG.

**Other activities and vested interests (DCG 4.2)**

Other than as described above, none of the members of the Executive Board has any position in governing or supervisory bodies of any major organization, institution or foundation under private or public law, permanent management or consultancy function for major interest groups, official function or political mandate.

**Management contracts (DCG 4.3)**

There are no management contracts.

## Compensation, shareholdings and loans (DCG 5)

### Content and method of determining the compensation and the share-ownership programs (DCG 5.1)

The compensation of the Board of Directors and the Executive Board (but not the general remuneration policy) are defined by the Nomination and Compensation Committee without involvement of external consultants on benchmarking. These decisions are reviewed on a yearly basis by the NCC and approved by the Board of Directors. The compensation for the Executive Board is composed of a fixed salary, a performance-related bonus depending on the achievement of yearly Company goals. The potential maximum bonus for a member of the Executive Board is CHF 100,000 (25% to 39% of the fixed salary). In 2009, each member of the Executive Board received in place of a cash bonus 6,000 share options. The goals for the year 2008/09 were preparation or progress in clinical trials, new Immunodrugs™ reaching proof-of-concept status, signing and achievement of collaboration objectives in commercial partnerships and meeting financial goals. The goals were weighted between 8% (meeting collaboration targets with customer) and 68% (progress in clinical trials). These goals are key value drivers in biotechnology companies and form the basis of a sustainable success. Furthermore, all members of the Executive Board yearly received share options, which can only be exercised after a vesting period of two years. The allocation of these options is discretionary and decided each year by the Board of Directors. The existence of an employment relationship without termination after a predetermined period of time (stay bonus), or the achievement of a special target, may also serve as a principle of compensation. Notice period of members of the Executive Board is six months.

Non-executive members of the Board of Directors receive a fixed, not performance related compensation of CHF 30,000 plus an attendance fee of CHF 4,000 with regard to each board meeting; each board member can decide whether he prefers to receive his remuneration in cash or in options.

Total compensation of the members of the Board of Directors and parties closely linked to such persons are published in Note 11, "Compensations and participations", to the financial statements of Cytos Biotechnology Ltd.

Compensation for the members of the Executive Board with the highest remuneration and total compensation of the Executive Board and parties closely linked to such persons are published in Note 11, "Compensations and participations", to the financial statements of Cytos Biotechnology Ltd.

No severance payments were paid to members of the Board of Directors or the Executive Board.

No compensation was paid to former members of governing bodies.

No shares were allotted to members of the Board of Directors or the Executive Board or any parties closely linked to them in 2009.

Participations, conversion and option rights in the Company by the individual members of the Board of Directors and the Executive Board and parties closely linked to them are published in Note 11, "Compensations and participations", to the financial statements of Cytos Biotechnology Ltd.

No honorariums or remunerations were billed by members of the Board of Directors or the Executive Board or parties closely linked to such persons for additional services performed during 2009.

No loans were granted to any governing body or closely linked party, neither in 2009 nor in previous years.

**Transparency of compensation for, shareholdings of and loans to issuers domiciled abroad (DCG 5.2)**

Not applicable, as the Company is domiciled in Switzerland.

**Shareholders' participation (DCG 6)**

**Voting rights and representation restrictions (DCG 6.1)**

All shares have the same voting rights and voting rights may be exercised only after the Board of Directors has approved a shareholder to be recorded in the Company's share register (Aktienregister) as a shareholder with voting rights. Without such registration, the transferee may not vote at or participate in the shareholders' meetings, but will still be entitled to dividends and other rights with a financial value.

At shareholders' meetings, shareholders can be represented only by way of written proxy. The only voting restriction is the restriction to 3% of the share capital in accordance with article 5 of the Articles applicable for Nominees as described under "Limitations on transferability and nominee registrations" in this Corporate Governance section.

**Statutory quorums (DCG 6.2)**

With the exception of provision 18c of the Articles, which requires at least two-thirds of the votes and the absolute majority of the represented nominal share capital for the removal of transfer restrictions, there are no provisions in the Articles requiring qualified majorities, which differ from the mandatory provisions of Swiss corporate law.

**Convocation of shareholders' meeting (DCG 6.3)**

There are no provisions in the Articles regarding the convocation of the shareholders' meeting, which deviate from the rules of the Swiss Code of Obligations.

In 2010, the shareholders' meeting is scheduled for April 22.

**Agenda (DCG 6.4)**

According to the Articles, shareholders representing at least 10% of the share capital may request that an item be included on the agenda of a shareholders' meeting. Such inclusion must be requested in writing at least 45 days prior to the meeting and must specify the agenda items and proposals of the respective shareholder(s).

### **Inscriptions into the share register (DCG 6.5)**

Those shareholders eligible to vote and entered in the share register as of April 1, 2009, automatically received the invitation to the annual shareholders' meeting 2009. Shareholders who were not registered on April 1, 2009, but who purchased shares at a later date received the invitation to the shareholders' meeting later, provided the request for registration as shareholder was received at the share register no later than April 16, 2009. At the annual shareholders' meeting held on April 23, 2009, shareholders registered with voting rights in the share register on April 16, 2009, were entitled to vote their shares.

The invitations to the annual shareholders' meeting 2010, which is expected to take place on April 22, 2010, will be automatically sent to those shareholders registered in the share register as of March 30, 2010. It is the intention of the Company to maintain a deadline for the inscription of the shareholders into the share register in view of their participation in the annual shareholders' meeting not exceeding a period of 8 to 15 days with regard to future shareholders' meetings.

### **Changes of control and defense measures (DCG 7)**

#### **Duty to make an offer (DCG 7.1)**

The Company has neither an opting-out nor an opting-up provision in its Articles. As a consequence, the mandatory bid obligation of the Stock Exchange Act applies.

#### **Clauses on changes of control (DCG 7.2)**

Upon a change of control, the periods of notice applicable for all members of the Executive Board become twelve months, in case of a termination by the Company within six months after the change of control.

The Company's option plans have a vesting period of two years. In the case of a change of control, the options would vest immediately. Additional costs of an acquisition of the Company due to an immediate vesting as of December 31, 2009, would be TCHF 464 for the unvested options.

In November 2009, the Board of Directors approved the share option plan 2010, which provides for the options with a vesting period of two years. This is also valid for the other stock option plans approved by the Board of Directors in 2009. In case of a change of control, the options vest automatically. Further details of the share option plans 2010 are shown in Note 28, "Events after balance sheet date", of the consolidated financial statements.

## **Auditors (DCG 8)**

### **Duration of the mandate and term of office of the auditor in charge (DCG 8.1)**

PricewaterhouseCoopers AG (PwC) was appointed as group and statutory auditors and as independent auditors for the first time at the shareholders' meeting in June 2002. The appointment is made on an annual basis. Stefan Räbsamen became the auditor in charge of the mandate in the business year 2008, succeeding Ralph Reinertsen who retired as an auditor in 2008. The rotation of the auditor in charge is due after 7 years of duty.

### **Auditing fees (DCG 8.2)**

In 2009, PwC earned in total TCHF 91 for reviewing two quarterly statements, auditing statutory and consolidated financial statements, reviewing the internal control system and auditing EU-grant documentation.

### **Additional fees (DCG 8.3)**

In 2009, PwC earned no additional fees from the group.

### **Information tools pertaining to the external audit (DCG 8.4)**

There were four meetings of the Audit Committee whereby the auditors participated in all meetings and delivered and commented in three meetings a report on significant results on their audit. Furthermore, the audit scope, audit and review procedures, independence of auditors, and audit fees were discussed. The Board of Directors assesses the performance of the auditors by its adherences to deadlines and agreed budgets as well as quality of reporting to the Board of Directors and Executive Board. The fees are compared with the fees of other listed companies; the decision-making authority is the Board of Directors. The Group strives to safeguard and support the independence of the auditor by avoiding conflicts of interests. By application of this policy, the Company carefully examines when attributing other consultancy assignments that such appointments do not endanger the independence of its auditor.

## **Information policy (DCG 9)**

At request of shareholders entered in the share register, the Company provides them with regular information such as Annual Reports, Quarterly Reports and press announcements.

Cytos Biotechnology's web page [www.cytos.com](http://www.cytos.com) provides additional information such as an overview of the Company's organization, science and technology, product pipeline, archived and latest press releases, publication dates of financial reports and the date of the annual shareholders' meeting. Quarterly and Annual Reports as well as the Articles are also available on the web page.

Ad-hoc press releases are available on the web page via a quick link on the start page (Cytos Press Releases), or under: <http://www.cytos.com/?id=939>.

Existing and potential investors are welcome at the Company's site; members of the Executive Board hold regular meetings with existing and potential investors and other interested parties. Contact details are displayed on page 5 of this Annual Report.